

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1139** Session of
2017

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TOOHIL, WARD, WHEELAND AND ZIMMERMAN, APRIL 10, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 13, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 offenses against the family, further providing for newborn
4 protection; in child protective services, further providing
5 for taking child into protective custody; and, in newborn
6 protection, further providing for definitions and for health
7 care providers accepting newborns, providing for emergency
8 services providers accepting newborns and for incubators for
9 newborns and further providing for reporting acceptance of
10 newborns, for immunity and for duties of department.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 4306 of Title 18 of the Pennsylvania
14 Consolidated Statutes is amended to read:

15 § 4306. Newborn protection.

16 (a) General rule.--A parent of a newborn shall not be
17 criminally liable for any violation of this title solely for
18 leaving a newborn in the care of a hospital [or], a police
19 officer at a police station pursuant to 23 Pa.C.S. Ch. 65
20 (relating to newborn protection) [providing that] or an
21 emergency services provider on the grounds of an entity

1 employing the emergency services provider or otherwise providing
2 access to the emergency services provider pursuant to 23 Pa.C.S.
3 Ch. 65 if the following criteria are met:

4 (1) The parent expresses, either orally or through
5 conduct, the intent to have the hospital [or], police officer <--
6 OR EMERGENCY SERVICES PROVIDER accept the newborn pursuant to <--
7 23 Pa.C.S. Ch. 65.

8 (2) The newborn is not a victim of child abuse or
9 criminal conduct.

10 (a.1) Incubator.--A parent of a newborn shall not be
11 criminally liable for any violation of this title solely for
12 leaving a newborn in an incubator if the newborn is not a victim
13 of child abuse or criminal conduct and the incubator is located:

14 (1) at a hospital;

15 (2) at a police station pursuant to 23 Pa.C.S. Ch. 65;

16 or

17 (3) on the grounds of an entity employing the emergency
18 services provider or otherwise providing access to the
19 emergency services provider pursuant to 23 Pa.C.S. Ch. 65.

20 (b) Definitions.--As used in this section, the following
21 words and phrases shall have the meanings given to them in this
22 subsection unless the context clearly indicates otherwise:

23 "Child abuse." As defined in 23 Pa.C.S. § 6303(b.1)
24 (relating to definitions).

25 "Emergency services provider." An emergency medical
26 responder, emergency medical technician, advanced emergency
27 medical technician or a paramedic as defined in 35 Pa.C.S. §
28 8103 (relating to definitions).

29 "Newborn." As defined in 23 Pa.C.S. § 6502 (relating to
30 definitions).

1 "Police department." A public agency of a political
2 subdivision having general police powers and charged with making
3 arrests in connection with the enforcement of criminal or
4 traffic laws.

5 "Police officer." A full-time or part-time employee assigned
6 to criminal or traffic law enforcement duties of a police
7 department of a county, city, borough, town or township. The
8 term also includes a member of the State Police Force.

9 "Police station." The station or headquarters of a police
10 department or a Pennsylvania State Police station or
11 headquarters.

12 Section 2. Section 6315(a) of Title 23 is amended by adding
13 a paragraph to read:

14 § 6315. Taking child into protective custody.

15 (a) General rule.--A child may be taken into protective
16 custody:

17 * * *

18 (6) By an emergency services provider on the grounds of
19 an entity that employs or otherwise provides access to the
20 emergency services provider under Chapter 65.

21 * * *

22 Section 3. Section 6502 of Title 23 is amended by adding a
23 definition to read:

24 § 6502. Definitions.

25 The following words and phrases when used in this chapter
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 * * *

29 "Emergency services provider." An emergency medical
30 responder, emergency medical technician, advanced emergency

1 medical technician or a paramedic as defined in 35 Pa.C.S. §
2 8103 (relating to definitions).

3 * * *

4 Section 4. Section 6504(b) of Title 23 is amended to read:

5 § 6504. Health care providers accepting newborns.

6 * * *

7 (b) Accepting newborns.--When a health care provider accepts
8 a newborn pursuant to this chapter, a parent [or], police
9 officer or emergency services provider may provide a health care
10 provider with information about the newborn's medical history
11 and any identifying information.

12 Section 5. Title 23 is amended by adding sections to read:

13 § 6504.2. Emergency services providers accepting newborns.

14 (a) Duties.--In accepting a newborn under this chapter, an
15 emergency services provider shall:

16 (1) take the newborn into protective custody as
17 specified under section 6315(a)(6) (relating to taking child
18 into protective custody); and

19 (2) ensure the newborn is transported to a hospital and
20 placed into the care of a health care provider as specified
21 under section 6504 (relating to health care providers
22 accepting newborns).

23 (b) Medical history.--When an emergency services provider
24 accepts a newborn under this chapter, a parent may provide the
25 emergency services provider with information about the newborn's
26 medical history and identifying information.

27 § 6504.3. Incubators for newborns.

28 (a) Provision optional.--A hospital, police station or other
29 entity employing or otherwise providing access to an emergency
30 services provider may provide an incubator for the care of a

1 newborn accepted under this chapter.

2 (b) Regulations.--The Department of Health shall promulgate
3 regulations for providing an incubator under subsection (a). The
4 regulations shall include all of the following:

5 (1) Sanitation standards for an incubator.

6 (2) Procedures to provide emergency care for an infant
7 placed in an incubator.

8 (3) Manufacturing and manufacturer standards for an
9 incubator.

10 (4) Design and function requirements for an incubator
11 which shall include all of the following:

12 (i) Installation of an incubator at a hospital,
13 police station or other entity which employs or otherwise
14 provides access to an emergency services provider.

15 (ii) Allowance of an infant to be placed in the
16 incubator anonymously by the parent.

17 (iii) Locking an incubator after the parent places
18 the infant in the incubator to prevent third parties from
19 having access to the infant.

20 (iv) Providing a controlled environment to protect
21 and care for the infant.

22 (v) Providing notice to the personnel of a hospital,
23 police station or other entity which employs or otherwise
24 provides access to an emergency services provider within
25 30 seconds of the infant being placed by the parent in
26 the incubator.

27 (vi) Triggering a 9-1-1 call if the personnel of a
28 hospital, police station or other entity which employs or
29 otherwise provides access to emergency services provider
30 does not respond within a reasonable amount of time under

1 subparagraph (v).

2 (5) Operating policy, supervision and maintenance
3 requirements for an incubator, including that only an
4 emergency services provider at an entity that employs or
5 otherwise provides access to the emergency services provider,
6 a health provider at a hospital or police officer at a police
7 station may take an infant into protective custody in
8 accordance with Chapter 63 (relating to child protective
9 services).

10 (6) Qualifications to install an incubator.

11 (7) Procedures and forms for the free registration with
12 the Department of Health of installers qualified to install
13 incubators in accordance with this chapter.

14 (8) Procedures for the free registration with the
15 Department of Health of an incubator installed in accordance
16 with this chapter.

17 (9) The creation and installation of signs near an
18 incubator to provide information to parents about how to use
19 the incubators.

20 (10) Any other provisions deemed necessary by the
21 Department of Health to ensure the safety of an infant and
22 the safe use of an incubator by a parent.

23 (c) Notice.--The Department of Health shall publish notice
24 in the Pennsylvania Bulletin of the promulgation of final
25 regulations regarding incubators under subsection (b).

26 Section 6. Sections 6505, 6507 and 6509 of Title 23 are
27 amended to read:

28 § 6505. Reporting acceptance of newborns.

29 A health care provider at a hospital shall in all cases
30 notify the county agency and the local municipal police

1 department or the Pennsylvania State Police where no municipal
2 police jurisdiction exists immediately by telephone regarding a
3 newborn accepted by a hospital under this chapter. A written
4 report shall be submitted to the county agency and local
5 municipal police department or the Pennsylvania State Police
6 within 48 hours after the oral report. This section applies in
7 the case of a hospital accepting a newborn pursuant to [section]
8 sections 6504.1(a)(2) (relating to police officers accepting
9 newborns) and 6504.2(a)(2) (relating to emergency services
10 providers accepting newborns). For purposes of this section, the
11 term "health care provider" shall include administrative,
12 managerial and security personnel employed by a hospital.

13 § 6507. Immunity.

14 Except for a violation of section 6506 (relating to failure
15 to report acceptance of newborns), no emergency services
16 provider, entity that employs or otherwise provides access to an
17 emergency services provider, hospital, health care provider at a
18 hospital or police department, police officer or administrative
19 or managerial personnel of a police department shall be subject
20 to civil liability or criminal penalty solely by reason of
21 complying with the provisions of this chapter.

22 § 6509. Duties of department.

23 The department shall provide educational materials for use by
24 emergency services providers, entities which employ or otherwise
25 provide access to emergency services providers, hospitals,
26 health care providers, employees at hospitals and police
27 officers regarding this chapter, section 6315(a)(3) (relating to
28 taking child into protective custody) and other applicable
29 provisions of Chapter 63 (relating to child protective services)
30 that relate to newborn protection. The department shall

1 promulgate such regulations as may be necessary to implement
2 this chapter, section 6315(a)(3) and other applicable provisions
3 of Chapter 63 that relate to newborn protection. The department
4 shall also provide emergency services providers, entities which
5 employ or otherwise provide access to emergency services
6 providers, health care providers, hospitals, the Pennsylvania
7 State Police and police departments with an informational
8 pamphlet regarding this chapter, section 6315(a)(3) and other
9 applicable provisions of Chapter 63 that relate to newborn
10 protection which may be distributed to the public. In addition,
11 the department shall comply with the provisions regarding infant
12 abandonment in sections 6365 (relating to services for
13 prevention, investigation and treatment of child abuse) and 6383
14 (relating to education and training). A report shall be made
15 annually to the General Assembly on the number and disposition
16 of newborns accepted in accordance with this chapter, section
17 6315(a)(3) and (5) and other applicable provisions of Chapter 63
18 that relate to newborn protection.

19 Section 7. This act shall take effect as follows:

20 (1) The following shall take effect immediately:

21 (i) This section.

22 (ii) The amendment or addition of 23 Pa.C.S. §§
23 6504.3(b) and (c) and 6509.

24 (2) The addition of 18 Pa.C.S. § 4306(a.1) and 23
25 Pa.C.S. § 6504.3(a) shall take effect 120 days after the
26 publication in the Pennsylvania Bulletin of the promulgation
27 of final regulations under 23 Pa.C.S. § 6504.3(c).

28 (3) The remainder of this act shall take effect in 60
29 days.